

REMARKS

Reconsideration and allowance of this application are respectfully requested in light of the above amendments and the following remarks.

Claim 63 is amended to overcome the 35 USC 101 rejection thereof, in accordance with the USPTO document entitled “Subject Matter Eligibility of Computer Readable Media” of January, 2010 which states:

“the broadest reasonable interpretation of a claim drawn to a computer readable medium ... typically covers forms of non-transitory tangible media and transitory propagating signals per se in view of the ordinary and customary meaning of a computer readable media, particularly when the specification is silent. See MPEP 2111.01.”

The USPTO document further states that a claim drawn to a computer readable medium may be amended to cover only statutory subject matter with the recitation “non-transitory.” This does not present a new matter issue in the instant application because the present specification support a non-transitory embodiment in that a signal per se is not described as the only viable embodiment. Accordingly, withdrawal of the rejection under 35 USC 101 is deemed to be warranted.

Claims 42, 43, 45-47, 49, 53, 54, 56-58, 60, 68, and 69 stand rejected, under 35 USC §103(a), as being unpatentable over Beckmann et al. (US 2004/0028078) in view of Cheng et al. (US 2004/0228313) and Walton et al. (US 2004/0120411). (Although the summary of this rejection on page 3 of the Office Action does not list all of the above claims, the discussion of the rejection does mention all of these claims.) Claims 51 and 62 stand rejected, under 35 USC §103(a), as being unpatentable over Beckmann et al. (US 2004/0028078) in view of Cheng et al.

(US 2004/0228313), Walton et al. (US 2004/0120411) and 3GPP TR 25.896 V6.0.0 (2004-03).

The Applicants respectfully traverse these rejections as follows.

Claim 42 defines a data transmission method in which a mobile terminal receives radio bearer mapping information comprising for each radio bearer: (1) a priority indicator for indicating a priority to be assigned to a logical channel to which the respective radio bearer is to be mapped and (2) a scheduling mode out of plural scheduling modes of the logical channel to which the respective radio bearer is to be mapped.

The Office Acknowledges that the combination of Beckmann et al. and Cheng et al. does not explicitly teach a scheduling mode included in received radio bearer mapping information as in the instant claimed invention, but rather states that the scheduling mode is determined from the transmission parameter information comprised in the received radio bearer information.

In connection with this deficiency of Beckmann et al. and Cheng et al., the Office Action newly cites Walton et al., citing Figs. 1 and 9B and paragraph [0177].

The Applicants note that paragraph [0177] of Walton et al. only mentions a general estimation and transmission mode selection for the uplink selection. Fig. 7, Steps 754 and 756, describe that the transmission mode, as determined in the access point, is signaled to the user terminal (see paragraph [0114]).

However, even though Walton et al. may suggest an explicit signaling of the transmission mode, the Applicants note that this transmission mode appears unrelated to a scheduling mode and thus is not relevant to the Applicants' claimed subject matter. This is apparent from several passages in Walton et al., e.g., paragraphs [0007] to [0009], reciting that the transmission mode indicates, among other things, the specific data rate to use for a parallel channel, and paragraphs

[0143] to [0167], which disclose *inter alia* transmission mode selection procedures. As is apparent from all these passages, the transmission mode is actually what is often referred to as a transport format, i.e., it specifies a coding rate and modulation scheme on a per channel basis, as can be readily recognized from paragraph [0152] and Table 2 of Walton et al. Accordingly, paragraph [0167] related to Fig. 8 of Walton et al. suggests that the transmission mode may be adjusted to the SNR margin for the wideband Eigenmode.

Even though Walton et al. state that the transmission mode indicates, among other things, coding rate and modulation scheme, nothing in Walton et al. discloses or suggests that transmission mode information signal to the communication terminal includes any indication of a scheduling mode out of plural scheduling modes of the logical channel to which a radio bearer is to be mapped. Although paragraph [0196] refers to downlink scheduling, nowhere does Walton et al. discuss how signaling of scheduling information is performed.

In conclusion, the transmission mode disclosed in Walton et al. is not related to a scheduling mode for the channels according to the Applicants' claimed subject matter, but rather pertains to the transmission format, i.e., coding rate and modulation scheme, to be used by the user terminal for uplink and downlink transmissions.

Hence, the Applicants respectfully submit that Walton et al. does not suggest indication of the scheduling mode within mapping information provided to the mobile terminal.

Accordingly, the Applicants submit that the teachings of Beckmann, Cheng, and Walton et al., even if combined as proposed in the Advisory Action, still would lack the above-noted features of claim 42 and thus these references, considered individually or in combination, do not render obvious the subject matter now defined by claim 42. Independent claims 53, 63, 68, and

69 now similarly recite the above-mentioned subject matter distinguishing method claim 42 from the applied references, although claims 53 and 69 do so with respect to apparatuses and claim 63 does so with respect to a computer readable medium. Therefore, allowance of claims 42, 53, 63, 68, and 69 and all claims dependent therefrom is considered to be warranted.

In view of the above, it is submitted that this application is in condition for allowance and a notice to that effect is respectfully solicited.

If any issues remain which may best be resolved through a telephone communication, the Examiner is requested to telephone the undersigned at the local Washington, D.C. telephone number listed below.

Respectfully submitted,

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JEL/DWW/att

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